

LAW OFFICES
BLOOSTON, MORDKOFKY, DICKENS, DUFFY & PRENDERGAST, LLP
2120 L STREET, NW
WASHINGTON, DC 20037

(202) 659-0830
FACSIMILE: (202) 828-5568

AFFILIATED SOUTH AMERICAN OFFICES

ESTUDIO JAUREGUI & ASSOCIATES
BUENOS AIRES, ARGENTINA

ROBERT M. JACKSON
OF COUNSEL

PERRY W. WOOFER
LEGISLATIVE CONSULTANT

EUGENE MALISZEWSKYJ
DIRECTOR OF ENGINEERING

February 4, 2009

HAROLD MORDKOFKY
BENJAMIN H. DICKENS, JR.
JOHN A. PRENDERGAST
GERARD J. DUFFY
RICHARD D. RUBINO
MARY J. SISAK
D. CARY MITCHELL
SALVATORE TAILLEFER, JR.*

ARTHUR BLOOSTON
1914 – 1999

*LIMITED TO MATTERS AND PROCEEDINGS
BEFORE FEDERAL COURTS AND AGENCIES.

WRITER'S CONTACT INFORMATION

(202) 828-5554
mjs@bloostonlaw.com

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, D.C. 20554

**RE: Jurisdictional Separations and Referral to the Federal-State Joint Board,
CC Docket No. 80-286
Federal-State Joint Board on Universal Service, CC Docket No. 96-45**

Dear Ms. Dortch:

On Wednesday, February 4, 2009, the Coalition for Equity in Switching Support (the "Coalition") met separately with Nicholas G. Alexander of Commissioner Robert M. McDowell's office, Scott Bergmann of Commissioner Jonathan S. Adelstein's office, and Jennifer McKee of Chairman Michael J. Copps' office concerning the Petition for Clarification filed by the Coalition. The following individuals participated in the meeting: David H. Armistead and Trey Judy of Hargray Telephone Company, Inc.; Dan Lindgren of KPU Telecommunications; Deborah Nobles of Townes Telecommunications Services Corporation ("Townes"); Cheryl L. Parrino of Parrino Strategic Consulting Group; and Mary J. Sisak, counsel for Townes. Attached is a copy of the presentation made during the meeting.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being filed via ECFS with the Commission's Secretary for inclusion in the above referenced-dockets. Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,

/s/ Mary J. Sisak
Mary J. Sisak

CC: Nicholas G. Alexander
Scott Bergmann
Jennifer McKee

**COALITION FOR EQUITY IN SWITCHING
SUPPORT**

Cross Telephone Company
Hargray Telephone Company, Inc.
Hart Telephone Company
Ketchikan Public Utilities
Northeast Florida Telephone Company
Randolph Telephone Membership Corporation
Star Telephone Membership Corporation

February 4, 2009
FCC Ex Parte

Relevant Rules

Section 54.301(a) in relevant part:

- (1) Beginning January 1, 1998, an incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall receive support for local switching costs using the following formula: the carrier's projected annual unseparated local switching revenue requirement, calculated pursuant to paragraph (d) of this section, shall be multiplied by the local switching support factor. . . .
- (2) . . . (i) The local switching support factor shall be defined as the difference between the 1996 weighted interstate DEM factor, calculated pursuant to § 36.125(f) of this chapter, and the 1996 unweighted interstate DEM factor.
- (ii) If the number of a study area's access lines increases such that, under § 36.125(f) of this chapter, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lower weighted interstate DEM factor shall be applied to the carrier's 1996 unweighted interstate DEM factor to derive a new local switching support factor.

Notes

Section 54.301 was adopted by the Commission in the May 1997 Universal Service Order.

In the May 1997 USF Order, the Commission also made changes to section 36.125, which is referenced in section 54.301. The version of Section 36.125 adopted in 1997 required small rural LECs exceeding a threshold number of access lines to lower their DEM weighting factors, but did not specify that the companies would be required to maintain those lower weighting factors for the duration of a "freeze period."

Section 36.125 (j)

If during the period from January 1, 1997, through June 30, 2006, the number of a study area's access lines increased or will increase such that, under § 36.125(f) the weighting factor would be reduced, that lower weighting factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. The study area will restate its Category 3, Local Switching Equipment factor under § 36.125(f) and use that factor for the duration of the freeze period.

Notes

In May 2001, the Commission adopted a five-year interim freeze of separations factors in the *Separations Freeze Order*, and amended section 36.125 in light of the five-year freeze.

The Current DEM weighting factors in the Commission rules are:

0-10,000 lines => DEM weighting factor of 3.0

10,001-20,000 lines => DEM weighting factor of 2.5

20,000-50,000 lines => DEM weighting factor of 2.0

50,001 lines and above => DEM weighting factor of 1.0

The following charts depict the inequity of the current application of the FCC's rules.

Comparison Sample of Companies that Should Qualify for a Weighting Factor of 3

ST	SAC	Study Area Name	2007 Access Lines	Weighting Factor
OH	300659	TELEPHONE SERVICE	9,927	2.5
NH	120045	KEARSARGE TEL CO	9,889	2.5
CA	542332	THE PONDEROSA TEL CO	9,854	3
KS	411826	RURAL TEL SERVICE CO	9,852	2.5
OK	431985	CROSS TEL CO	9,723	2.5
GA	220378	PLANTERS RURAL COOP	9,720	2.5
TN	290578	TELLICO TEL CO	9,717	3
TX	442091	ETS TEL. CO., INC.	9,663	3
AK	613013	KETCHIKAN PUBLIC UT	9,542	2.5
AR	401718	PRAIRIE GROVE TEL CO	9,536	2.5
VA	190249	ROANOKE & BOTETOURT	9,514	2.5
GA	220368	HART TEL CO	9,410	2.5
LA	270431	CENTURYTEL-NW LA	9,333	2.5
TN	290557	CENTURY-CLAIBORNE	9,295	3
MN	361375	MID-COMM-HICKORYTECH	9,258	2.5
ME	100022	SACO RIVER TEL & TEL	9,223	2.5
WI	330944	FRONTIER-ST.CROIX	9,216	2.5
MI	310738	WOLVERINE TEL CO	9,180	2.5
NY	150089	DEPOSIT TEL CO	9,132	3
WI	330938	NORTHEAST TEL CO	9,115	3
KY	260411	LESLIE COUNTY TEL CO	9,109	3
NY	150122	FRONTIER-SENECA GORH	9,102	2.5
WI	330934	CENTURYTEL-MW-WI	9,087	2.5
MT	483308	BLACKFOOT TEL - CFT	9,017	3
OR	532371	CASCADE UTIL INC	9,014	2.5
MN	361358	BLUE EARTH VALLEY	8,893	3
MN	361362	BRIDGEWATER TEL CO	8,809	3
WI	330860	CHEQUAMEGON COM COOP	8,803	2.5
MS	280454	FRANKLIN TEL CO - MS	8,789	3
NJ	160135	WARWICK VALLEY-NJ	8,759	2.5
KY	260415	PEOPLES RURAL COOP	8,757	3
WI	330909	MIDWAY TEL CO	8,700	3
OK	431980	CHICKASAW TEL CO	8,679	3
ND	381630	POLAR COMM MUT AID	8,633	3
OK	432006	MICLOUD TEL CO	8,580	3
ND	381611	DICKEY RURAL COOP	8,555	3
IN	320775	HANCOCK TELECOM	8,539	3
AR	401692	ARKANSAS TEL CO	8,539	3
NM	494449	NAVAJO-NM-FRONTIER	8,454	3
NY	150125	STATE TEL CO	8,441	3
MT	482235	BLACKFOOT TEL - BTC	8,332	3
TN	290574	CENTURYTEL-OOLTEWAH	8,316	3
AZ	452302	VERIZON CALIF-AZ	8,268	3
IA	351888	GRAND RIVER MUT-IA	8,234	3
AL	250284	BUTLER TEL CO	8,190	2.5

Comparison Sample of Companies that Should Qualify for a Weighting Factor of 2.5

ST	SAC	Study Area Name	2007 Access Lines	Weighting Factor
NC	230502	STAR MEMBERSHIP CORP	19,488	2
MN	361479	SCOTT RICE -INTEGRA	19,243	2.5
WI	330950	CENTURYTEL-NW WI	19,229	2.5
WY	512251	RANGE TEL COOP - WY	18,735	2.5
SD	391686	VIVIAN TELEPHONE CO	18,398	2
AR	401705	CENTURYTEL- ARKANSAS	18,113	2.5
ND	381447	NORTH DAKOTA TEL CO	17,998	2.5
MN	361482	SHERBURNE CTY RURAL	17,839	2.5
OK	432011	OKLAHOMA WINDSTREAM	17,812	2.5
NY	150128	FRONTIER-SYLVAN LAKE	17,601	2
MN	361385	EAST OTTER TAIL TEL	17,365	2.5
TX	442086	HILL COUNTRY CO-OP	17,334	2.5
TN	290581	UTC OF TN	17,179	2.5
KY	260421	WEST KENTUCKY RURAL	17,087	2.5
SC	240516	CHESTER TEL CO - SC	17,072	2.5
OK	432016	PANHANDLE TEL COOP	17,042	2

Comparison Sample of Companies that Should Qualify for a Weighting Factor of 2

ST	SAC	Study Area Name	2007 Access Lines	Weighting Factor
SC	240523	HARGRAY TELEPHONE CO., INC.	47,139	1.0
NM	491193	WINDSTREAM SW-NM#2	46,925	2.0
NY	150109	WINDSTREAM-JAMESTOWN	43,640	2.0
NM	491164	WINDSTREAM SW-NM#1	42,928	2.0
TX	442072	CONSOLIDATED FT BEND	42,484	2.0
NC	230468	ATLANTIC MEMBERSHIP	42,429	2.0
TX	442083	GUADALUPE VALLEY TEL	41,444	2.0
NY	150106	WINDSTREAM NY-FULTON	41,271	2.0

Companies depicted in **Bold** do not receive support at the level of other similarly situated companies due the current interpretation of the ambiguity in the rules.

Source: USAC 2008 4th Quarter FCC Filing HC08